

STATE OF VERMONT
PUBLIC SERVICE BOARD

Dig Safe Notice No. 730

In Re: Engineers Construction, Inc., Alleged Violation of)
May 25, 2010, as reported by Vermont Gas Systems, Inc.)

Order entered: 5/24/2011

ORDER RE: NOTICE OF PROBABLE VIOLATION

Background

1. Pursuant to 30 V.S.A. § 7001 et. seq., and Vermont Public Service Board Rule 3.800, the Vermont Department of Public Service ("Department") issued a Notice of Probable Violation of Underground Utility Damage Prevention System ("NOPV") to Engineers Construction, Inc. ("Respondent").
2. Incident Date: May 25, 2010
3. Incident Location: 110 White Street, South Burlington, VT
4. Name and Address of Company that Reported the Incident to the Department: Vermont Gas Systems, Inc., 85 Swift Street, South Burlington, VT 05403
5. Date Incident Reported to Effected Utility: May 25, 2010
6. Date NOPV issued by Department: March 22, 2011 (#1828)
7. Department's Statement of Evidence Supporting the Alleged Violation: "The Department of Public Service investigated this incident and determined the following details. On 4/27/10, Engineers Construction Inc. made a notice of excavation activities for a water line placement to Dig Safe System, Inc. Vermont Gas Systems accurately located and marked its underground facilities in the area of the proposed excavation. Tha paint marks were clearly visible at the time of excavation. Engineers Construction used an excavator type machine within 18" of the marks. This digging resulted in a service line being damaged and a subsequent loss of service to the homeowner for 2 hours. Engineers Construction notified VGS of the damaged facility. The Department of Public Service issued 2 Notices of Probable Violation (NOPV's) to Engineers Construction, Inc. during the 12 months preceding this incident."

8. Statute, Rule, Regulation or Order Allegedly violated: 30 V.S.A. § 7006b
9. The Department's Recommended Remedial Action(s) (Including Civil Penalties): Civil penalty in the amount of Nine Hundred Dollars (\$900.00).
10. The Respondent has agreed to take the remedial action(s) recommended by the Department.¹

Conclusion and Order

Because the Respondent has not contested the NOPV, or the allegations therein, we conclude that the remedial action proposed in the NOPV is appropriate, and should be imposed.²

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

Within thirty days of the date of this Order, Engineers Construction, Inc. shall pay a civil penalty in the amount of Nine Hundred Dollars (\$900.00) by submitting to the Public Service Board a check in that amount made payable to the State of Vermont, and sent to the Public Service Board at 112 State Street, Montpelier, VT 05620-2701.

1. *See*, Respondent's filing of 4/20/11.

2. *See*, Public Service Board Rule 3.807(G).

Dated at Montpelier, Vermont, this 24th day of May, 2011.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: May 24, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.